

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

ASHLEY FILLIPS

§

VS.

§

CAUSE NO. 1:17-cv-296

RODERICK DEWAYNE JONES  
AND BOYD BROS. TRANSPORTATION,  
INC.

§  
§  
§

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Defendant, **BOYD BROS TRANSPORTATION, INC** and in accordance with 28 U.S.C. §§ 1332, 1441 and 1446 *et seq.*, files this Notice of Removal of the above styled case from the 136th Judicial District Court of Jefferson County, Texas, to the United States District Court for the Eastern District of Texas, Beaumont Division, based on diversity of citizenship of the parties. Pursuant to the applicable federal statutes and the local rules for the Eastern District of Texas, Defendant attaches the following documents in support of this Notice of Removal:

1. Attachment A: Plaintiff's First Amended Petition to Boyd Bros. Transportation, Inc;
2. Attachment B: Defendants, Boyd Bros. Transportation, Inc and Roderick Dewayene Jones' Original Answer;
3. Attachment C: Transmittal from agent for Service of Process, dated June 21, 2017;
4. Attachment D: Citation issued by Jefferson County District Court, Case No. D-0200030 on June 7, 2017;

In filing this Notice of Removal, Defendant expressly reserves all other questions other than that of removal, for the purpose of further pleadings.

**I.**

**Parties**

The Plaintiff, **ASHLEY FILLIPS**, is a resident of Texas. (¶ 2 Plaintiff's Original Petition). **BOYD BROS. TRANSPORTATION, INC.** is a Alabama corporation. (¶ 5 Plaintiff's Original Petition). Defendant, **RODERICK DEWAYENE JONES** is a resident of Alabama. (¶ 3 Plaintiff's Original Petition).

**II.**

**Diversity of Citizenship**

**BOYD BROS. TRANSPORTATION, INC.** asserts that this court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332.

**A. Factual Background:**

The lawsuit arises from a collision which allegedly occurred on July 27, 2016 in Jefferson County, Texas. (Ex. A, Plaintiff's Petition, ¶ 9 & 10). Plaintiff, **ASHLEY FILLIPS**, claims that **RODERICK DEWAYENE JONES** was acting in the course and scope of his employment with Defendant **BOYD BROS. TRANSPORTATION, INC.** (Ex. A, Plaintiff's Petition, ¶ 11). Plaintiff, **ASHLEY FILLIPS**, claims to have sustained personal injuries which have resulted in medical expenses in the past and future, physical pain, mental anguish, impairment, disfigurement and lost wages. (Ex. A, Plaintiff's Petition, ¶ 18). Plaintiff is claiming he will be seeking damages in excess of \$200,000.00 (Ex. A, Plaintiff's Petition, ¶ 7).

B. Analysis

Defendants must show the amount in controversy exceeds the minimum jurisdictional limit of this court by a preponderance of the evidence. The Defendant is permitted to meet this burden through evidence attached to the notice of removal or through the face of the Plaintiff's petition. Garcia v. Koch Oil Co. of Texas, Inc., 351 F.3d 636, 639-640 (5<sup>th</sup> Cir. 2003). Here, Defendant can demonstrate through the face of the Plaintiff's petition that the amount in controversy is satisfied because the Plaintiff is seeking more than \$200,000. In short, this court has original jurisdiction of this case pursuant to 28 U.S.C. § 1332 (a).

III.

Miscellaneous Facts

Plaintiff's First Amended Petition styled, **ASHLEY FILLIPS VS. BOYD BROS. TRANSPORTATION, INC**, was filed on June 6, 2017. Citation was not issued until June 7, 2016 and service was not accomplished until June 19, 2016 (Attachment D Citation). Defendant, **RODERICK DEWAYENE JONES**, has answered through the undersigned counsel and consents to removal of this suit from the 136th Judicial District Court of Jefferson County to the United States District Court for the Eastern District of Texas. Under 28 U.S.C. § 1446 (b), Defendant has thirty days from the date of service of the Plaintiff's Original Petition to file a Notice of Removal. Accordingly, pursuant to 28 U.S.C. § 1446 (b), this Notice of Removal is timely.

IV.

The attorneys involved in this action are as follows:

1. Jeffrey T. Roebuck,  
State Bar No. 24027812,  
476 Oakland Street  
Beaumont, Texas 77701,  
TPN: 409-892-8227,  
FXN: 409-892-8318

TPN: 409-892-8227,  
FXN: 409-892-8318  
Email: jeff@roebuckthomas.com.  
Attorney for Plaintiff

2. Warren T. McCollum,  
Fenley & Bate, L.L.P.,  
State Bar No. 24013127,  
P.O. Box 450,  
Lufkin, Texas, 75902-0450,  
TPN: 936-634-3346,  
FAX: 936-639-5874,  
Email: wmcollum@fenley-bate.com

Attorney for Defendants

**BOYD BROS. TRANSPORTATION, INC AND RODERICK DEWAYNE JONES**

WHEREFORE PREMISES CONSIDERED, Defendant, **BOYD BROS. TRANSPORTATION, INC** prays that the United States District for the Southern District of Texas, Corpus Christi Division, accept this Notice of Removal and assume jurisdiction of this matter and issue any orders and process as necessary to bring Plaintiff, **ASHLEY FILLIPS** and Defendants, **BOYD BROS. TRANSPORTATION, INC AND RODERICK DEWAYNE JONES**, before it and to effectively prevent further proceeding of this case in the 136th Judicial District Court of Jefferson County, Texas.

Respectfully submitted,

  
\_\_\_\_\_  
WARREN T. MCCOLLUM  
SBN: 24013127  
FENLEY & BATE, L.L.P.  
P.O. Box 450  
Lufkin, Texas 75902-0450  
TPN: (936) 634-3346  
FXN: (936) 639-5874

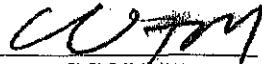
ATTORNEY FOR DEFENDANTS  
**BOYD BROS. TRANSPORTATION,  
INC AND RODERICK DEWAYENE  
JONES**

**CERTIFICATE OF SERVICE**

I, the undersigned attorney of record in the above-numbered and styled cause, do hereby certify that on the 10 day of July, 2017, served a true and correct copy of the foregoing to:

Mr. Jeffrey T. Roebuck  
476 Oakland Street  
Beaumont, Texas 77701  
FXN: (409) 892-8318  
jeff@roebuckthomas.com

- By certified mail
- By regular mail
- By overnight mail
- By ECM
- By Facsimile
- By Hand Delivery

  
\_\_\_\_\_  
WARREN T. MCCOLLUM